HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No.728 of 1992

PETITIONER Udaya Cooperative Housing Society Limited, Tatiband, Raipur bearing Registration No.DR/RPR/75/81-82 through its President Shri Ghasiram Chandrakar.

Vs.

RESPONDENTS

1. State of Madhya Pradesh through the Secretary, Housing and Environment Department Madhya Pradesh, Bhopal.
2. Collector Raipur.
3. Competent Authority under the Urban Land (Ceiling & Regulation) Act, 1976, Raipur.
4. Madhya Pradesh Housing Board, Madhya Pradesh, Bhopal through its Chairman.
5. Executive Engineer, Housing Board, Raipur.
6. Municipal Corporation Raipur through its Municipal commissioner.
7. Raipur Development Authority, Raipur through its Chief Executive Officer.
8. Joint Director of Town & Country Planning, Raipur.
9. District Registrar, Collectorate premises, Raipur (CG)

Petition under Articles 226/227 of the Constitution of India

Present: Shri Abhishek Sinha, counsel for the petitioner.
Shri AS Kachhawaha, Government Advocate for the State.

ORAL ORDER
(Passed on 27th April, 2007)

The petitioner is a Cooperative Housing Society registered under the provisions of Madhya Pradesh Cooperative Societies Act 1960 ("the Act 1960" for short). The petitioner- Society is in possession of 110 acres of land spread over in Sectors 1 to 4, Tatiband, Raipur.

(2) The respondents had initiated proceedings against the petitioner-society under the provisions of Urban Land (Ceiling & Regulation) Act, 1976 ("the Act 1976" for short) and had declared certain extent of land as surplus land. Thereafter, notifications had been issued under Section 8 of the Act 1976.

However, they have not taken the possession of the land that was declared to be in excess as required under Section 10(2) of the Act 1976.

(3) Aggrieved by the order passed by the respondents declaring that the petitioner is holding excess of land as envisaged under the provisions of the Act,1976, the petitioner is before this Court in this writ petition. This Court while entertaining the writ petition had granted an interim order. By virtue of the interim order granted by this Court, the petitioner-society continues to be in possession of the land declared to be surplus land.

(4) During the pendency of this writ petition, the Act, 1976 has been repealed by Act No.15 of 1999. The effect of such repeal is considered by the Apex Court in the matter of ***Pt Madan Swaroop Shrotiya Public Charitable Trust Vs State of UP and others*** reported in ***(2000) 6 SCC 325.*** In the said case, the Supreme Court observed as under :

> 4. In the counter-affidavit not a word has been said about the possession of the surplus land. In fact, it is maintained by the appellant that the possession is still with the appellant who was also granted an interim order regarding "status quo".
>
> 5. Since there is nothing on record to indicate that the State had taken possession over the surplus land, the present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

(5) In view of the Act having been repealed by Act No.15 of 1999, and that the petitioner continues to be in possession of the land, it is declared that the proceedings initiated by the respondents are abated as envisaged under Section 4 of the Act, 1999.

(6) With these observations, and directions, the petition is disposed of. Ordered accordingly.

Sd/-
Chief Justice

XI-HC-78

(167)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 728/92 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	04.05.2007 Application dated 03.05.2007 filed by learned counsel for the petitioner for correction of typographical error is taken on record. The date of passing of the order has wrongly been mentioned as 27th March 2007, whereas it is 27th April 2007. Therefore, the prayer made in the application is allowed. The date of passing of the order is corrected to be read as 27th April 2007, instead of 27th March 2007. Ordered accordingly. **Sd/-** **Chief Justice**	

P.T.O.

12/2/09 10/12/09 22/12/09 22/12/09